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REMARKS

In response to the Non-Final Office Action mailed September 11, 2007 (hereinafter "Office Action"), claim 1 has been amended. No claims have been cancelled or newly added. Therefore, claims 1-38 remain pending. Support for the instant amendments is provided throughout the as-filed Specification. Thus, no new matter has been added. In view of the foregoing amendments and following remarks, allowance of all of the pending claims is respectfully requested.

INFORMATION DISCLOSURE STATEMENT

Applicant electronically filed a Supplemental Information Disclosure Statement on December 26, 2007. Applicant respectfully requests that the Examiner consider the references cited therein, and provide a signed and initialed copy of the Form PTO-1449 for this submission with the next Office Action.

REJECTIONS UNDER 35 U.S.C. § 101

A. Claims 1-38 stand rejected under 35 U.S.C. § 101 as allegedly being directed to non-statutory subject matter. In particular, the Examiner alleges that "the disclosed invention is inoperative and therefore lacks utility." Office Action at 2. In support of this rejection, the Examiner alleges that claims 1-38 "merely recite elements of an apparatus or system . . . without showing any ability to realize functionality of the recited elements (i.e. functional descriptive material per se)." Office Action at 2-3.

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This rejection is legally improper for at least the reason that claims 1-38 produce a "useful, concrete, and tangible result." More particularly, claims 1-38 do not merely recite functional descriptive material for at least the reason that independent claim 1 expressly recites various hardware components tangibly embodying the useful and concrete results recited therein. For example, independent claim 1 recites, among other things, "determining earnings estimates performance data for one or more contributors," the result of which is stored in "a memory." As such, the "determined earnings estimates performance data stored in the memory" can be aggregated and subsequently viewed "via a graphical user interface displayed on a display device."

Accordingly, for at least the foregoing reasons, the Examiner has improperly alleged that the claimed invention is "inoperable lacking any utility." Independent claim 1 is not directed to functional descriptive material per se because a "useful, concrete, and tangible result" is produced thereby. For at least this reason, the rejection of claims 1-38 under 35 U.S.C. § 101 as allegedly being directed to non-statutory subject matter is legally improper and should be withdrawn.

B. Claims 1-38 stand rejected under 35 U.S.C. § 101 as allegedly being directed to a non-statutory process. In particular, the Examiner alleges that the "instant claims recite [a] mathematical algorithm which solve [sic] a problem of display of information," and further alleges that "the only limitations in the claims in addition to the mathematical algorithm are data gathering steps . . . applied to solve a problem of updating a display of information." Office Action at 3-4.

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This rejection is legally improper for at least the reason that claims 1-38 are not presented in the statutory class of a process or method. The Examiner's reliance on judicial decisions holding that a "mathematical algorithm is not made statutory by 'attempting to limit the use of the formula to a particular technological environment'" appears to be misplaced. In particular, the Examiner identifies various decisions as allegedly holding that "'field of use' or 'end use' limitations in the claim preamble are insufficient to constitute a statutory process," which the Examiner further alleges to be "consistent with the usual treatment of preambles as merely setting forth the environment." Office Action at 3. However, these propositions are only relevant to process or method claims, whereas independent claim 1 is directed to a "computer-implemented system." Thus, the rejection is legally improper for at least the reason that the Examiner has improperly treated independent claim 1 as a process or method.

Furthermore, independent claim 1 does not merely gather data to update a display of information as the Examiner alleges. Rather, the various features recited therein cause the computer-implemented system to determine "earnings estimates performance data for one or more contributors," which can then be "aggregated according to one or more user-defined criteria." For at least this reason, the computer-implemented system does not "merely determine values for the variables used in the mathematical formulae used in making the calculations." To the contrary, independent claim 1 expressly provides that users interact with the system for at least the reason that "user-defined criteria" informs the manner by which "earnings estimates performance data" is aggregated for viewing "via a graphical user interface displayed on a display device." Thus, the rejection is improper for

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at least the reason that the Examiner has improperly characterized the claimed invention as mere data gathering.

Accordingly, for at least the foregoing reasons, the Examiner has improperly alleged that the claimed invention is directed to "data gathering steps" in the context of an allegedly non-statutory process. In particular, for at least the reason that independent claim 1 is directed to a "computer-implemented system," not a process or method, and further that the claimed invention does not merely gather data, the rejection of claims 1-38 under 35 U.S.C. § 101 as allegedly being directed to a non-statutory process is legally improper and should be withdrawn.

REJECTIONS UNDER 35 U.S.C. § 112, SECOND PARAGRAPH

A. Claims 1-38 stand rejected under 35 U.S.C. § 112, second paragraph, as allegedly being incomplete for omitting essential elements, such omission amounting to a gap between the elements. In particular, regarding independent claim 1, the Examiner alleges that "it is not clear how [the] selection is achieved" for the recited feature of "one or more selected contributors." Office Action at 5.

Although Applicant disagrees with the propriety of this rejection, solely in an effort to expedite prosecution of this application, independent claim 1 has been amended to further clarify various aspects of the invention. As such, amended independent claim 1 sets forth the manner for selecting the "one or more selected contributors" with sufficient clarity to meet the requirements of 35 U.S.C. § 112, second paragraph. In particular, the proper focus of the definiteness requirement "is whether the claim meets the threshold

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requirements of clarity and precision, not whether more suitable language or modes of expression are available.” MPEP § 2173.02. Thus, the feature of independent claim 1 reciting that “the selected contributors [are] selected from among the one or more contributors” specifies how the selection occurs with sufficient precision to satisfy the statutory notice requirement of 35 U.S.C. § 112, second paragraph.

Accordingly, because independent claim 1 expressly provides that “the selected contributors [are] selected from among the one or more contributors,” the claim does not omit essential elements, as the Examiner alleges. Therefore, for at least the reason that the Examiner “should allow claims which define the patentable subject matter with a reasonable degree of particularity and distinctness,” and “should not reject claims . . . if other modes of expression selected by [Applicant] satisfy the statutory requirement,” the rejection is legally improper and should be withdrawn. *See* MPEP § 2173.02.

B. Claims 1-38 stand rejected under 35 U.S.C. § 112, second paragraph, as allegedly being “incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections.” Office Action at 5. In particular, the Examiner alleges that “[i]t is not clear how the recited elements are structurally related to each other. For instance how is the memory related to the performance aggregation module or the performance view module.” Office Action at 5.

Although Applicant disagrees with the propriety of this rejection, solely in an effort to expedite prosecution of this application, independent claim 1 has been amended to further clarify various aspects of the invention. As such, amended independent claim 1

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clearly sets forth the relationship between the various elements recited therein. In particular, amended independent claim 1 specifies that the “performance aggregation module” aggregates “the determined earnings estimates performance data stored in the memory,” and further that the “performance view module” provides for “viewing . . . the aggregated earnings estimates performance data.”

Accordingly, for at least the foregoing reasons, independent claim 1 clearly sets forth the relationship among the various features recited therein. For at least this reason, the rejection is improper and should be withdrawn.

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CONCLUSION

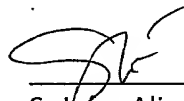
Having addressed each of the foregoing rejections, it is respectfully submitted that a full and complete response has been made to the outstanding Office Action and, as such, the application is in condition for allowance. Notice to that effect is respectfully requested.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

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Respectfully submitted,

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